vania, against the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. ALLEN (by request):

S. 3380. A bill to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research; to the Committee on Agriculture, Nutrition, and Forestry.

1890 LAND-GRANT COLLEGES

● Mrs. ALLEN. Mr. President, I am introducing this bill at the request of the administration. The bill would amend section 1445(b) of the Food and Agriculture Act of 1977, which sets out the formula for the distribution of Federal funds to support agricultural research at the 1890 land-grant colleges.

The distribution formula would be changed to assure that the eligible 1890 schools receive funds in fiscal year 1979 and following years at the present funding level. This change will enable each school to maintain the same level of agricultural research next year. No additional appropriations would be required by enactment of this bill.

Mr. President, I ask unanimous consent that the bill and Secretary of Agriculture Bergland's transmittal letter be printed in the RECORD.

There being no objection, the bill and letter was ordered to be printed in the RECORD, as follows:

S. 3380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1445(b) of the Food and Agriculture Act of 1977 is amended to read as follows:

"(b) Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

"(1) Three per centum shall be available to the Secretary for administration of this section.

"(2) The remainder shall be allotted among the eligible institutions as follows:

"(A) Funds up to the total amount available to all eligible institutions in the fiscal year ending September 30, 1978, under section 2 of the Act of August 4, 1965 (79 State. 431; 7 U.S.C. 4501), shall be allocated among the eligible institutions in the same proportion as funds made available under section 2 of the Act of August 4, 1965, for the fiscal year ending September 30, 1978, are allocated among the eligible institutions.

"(B) Of funds in excess of the amount allocated under subparagraph (A) of this paragraph, 20 per centum shall be allotted among eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census. In computing the distribution of funds allocated under that subparagraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.".

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 29, 1978.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of the Congress is a draft bill "To amend Section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for the distribution of funds authorized thereunder."

The Department of Agriculture recommends that the draft bill be enacted.

Section 1445 of the Food and Agriculture Act of 1977, Public Law 95–113, authorizes annual appropriations for the support of continuing agricultural research at 1890 Land-Grant Colleges, including Tuskegee Institute. Section 1445(b) provides a formula for the distribution of the funds to the eligible institutions.

Prior to enactment of Section 1445, funds were made available to these same institutions for agricultural research under the authority of Section 2 of Public Law 89–106 (7 U.S.C. 450i). The administrative formula used to distribute the funds, however, differed from that now provided in Section 1445(b).

Application of the new formula will result in a decrease in funding to some of the eligible institutions, requiring them to reduce their research programs from the levels currently supported by the Department. Enclosed is a table comparing the funding actually received by the institutions in FY 1978 with the amounts that would be received in FY 1979 under the new formula assuming that the amount budgeted for this Section is appropriated.

The proposed amendment to Section 1445(b) would enable the eligible institutions to continue their agricultural research programs at the present funding levels by providing for the allocation of funds up to the total amount made available in FY 1978 in the same proportion as applied in FY 1978. Further, this amendment would provide for additional amounts to be allocated under a formula which is the same as that established under section 144(b)(2)(B) of the Act for the allocation of funds to these institutions for extension work.

No additional appropriations would be required by reason of the enactment of this draft bill.

Section 102(2)(C) of P. L. 91–190 does not apply to this legislation; therefore, an environmental statement is not enclosed.

An identical letter has been sent to the Speaker of the House of Representatives.

The Office of Management and Budget advises there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
Secretary.

Institution	Current fiscal year 1978 I	Per statutory formula Public Law 95–113 II	Per proposed amendment III
Alabama A. & M	896,992	*762,446	898,672
Tuskegee	877,316	*762,446	378,996
Arkansas, Pine Bluff	762,624	*665,887	764,113
Delaware	329,135	*160,293	329,619
Florida A. & M	569,478	574,743	570,786
Fort Valley	938,710	*885,245	940,635
Kentucky State	961,872	1,102,818	964,408
Southern University	693,386	*627,807	694,799
Maryland, Eastern Shore	501,609	*451,837	502,673
Alcorn	930,740	*802,120	932,499
Lincoln University	882,049	1,116,832	884,434
North Carolina A & T	1,279,299	1,508,087	1,282,461
Langston	665,366	*631,679	666,787
South Carolina State	778,066	*655,760	779,535
Tennessee State	978,550	1,096,608	980,904
Prairie View	1,238,204	1,393,550	1,241,138
Virginia State	869,595	895,841	871,541
Base		14,184,000	14,184,000
3 percent adm		441,000	441,000
Penalty mail		75,000	75,000
Total	14,153,000	14,700,000	14,700,000

*Denotes institutions that would receive less funds than in fiscal year 1978.●

By Mr. BAKER (for himself and Mr. SASSER):

S. 3381. A bill to amend the Internal Revenue Code of 1954 relating to estate taxes to provide that the election to use the alternate valuation date may be made on a return that is filed late; to the Committee on Finance.

● Mr. BAKER. Mr. President, I am today introducing on behalf of Senator SASSER and myself a bill which would alleviate an inequity in the Internal Revenue Code relating to the valuation of property for estate tax purposes.

I am referring to the rule which permits the estate of a decedent to use the "alternate valuation date" for purposes of computing the value of the estate for estate tax purposes. This rule, which has its origin in the economic decline of the 1930's, is intended to prevent the inequity of imposing the estate tax on the date of death value of property, if that value declines shortly after the date of death.

The current rule is that the estate may elect to value the property of the decedent as of the date 6 months after the decedent's death instead of at the date of death. Thus, if the decedent's property declines in value during that 6 month period, the estate tax may be computed on the lower actual value of the property. This is an eminently fair rule which avoids the harsh result of paying an estate tax which is based on a valuation of the property which is greater than the actual value at the time the tax falls due.

One problem with the existing rule is that the alternate valuation date may be used only if it is elected on an estate tax return that is filed within the prescribed time. Thus, even where there is reasonable cause for the failure to file the return within the prescribed time, the alternate valuation date may not be used. Moreover, if the estate tax return is just one day late, and even if the delay is due to reasonable cause, the estate may not use the alternate valuation date.

It is also incongruous that the penalties specifically provided for the late filing of a return do not apply if there is reasonable cause for the late filing, while in such a case the alternate valuation date election is absolutely precluded. Yet, the penalty of the loss of the alternate valuation date may be more severe than the penalty specifically provided for late filing.

The effects of this provision of the Federal estate tax law are illustrated by the case of the estate of one of my Tennessee constituents. In this case, Mr. President, the value of the estate declined severely during the 6 months following death, yet the alternate valuation date election was denied because the estate's coexecutor was recovering from open heart surgery at the time the return was due, and the return was filed late. As a result, the death tax due actually exceeds the value of the estate.

I do not believe that this harsh result serves any legitimate policy of the tax law. This bill would not change any of the specified penalties for the late filing of a return. It would merely permit the estate to elect the alternate valuation date on a late return. I believe this alternate valuation date is intended to and should apply if the decedent's property has severely decreased in value, even if, for some reason, the return is filed late.

Mr. President, my staff has discussed this measure with staff at the Treasury Department, and it is my understanding that, although the Department does object to making the proposed change applicable to open cases, it has no objection to making the prospective change in the law contained in the bill. I believe that this measure will redress a glaring inequity in existing law, and I urge my colleagues to consider it favorably.

Mr. President, I ask unanimous consent that a technical explanation of the bill's provisions appear in the RECORD at this point.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF BILL

This bill would amend section 2032(c) of the Internal Revenue Code in order to permit an election to use the alternate valuation date for estate tax purposes on an estate tax return which is filed late.

The general rule for estate tax purposes is that the value of the decedent's property is determined as of the date of death. The alternate valuation date election under section 2032 of the Code permits an estate to compute its estate tax liability using the value of the decedent's property as of the date 6 months after the date of death. The purpose of this provision is to prevent the inequity which would result from paying taxes on the date-of-death value when there is a severe decline in the value of the property shortly after the date of death. Otherwise, the estate tax could conceivably be greater than the value of the decedent's property at the time the tax is due.

Section 2032(c) currently provides that the alternate valuation date election can only be made on a timely filed estate tax return. If the return is late for any reason, including reasonable cause, the election cannot be made.

There is no reason for this harsh penalty for late filing. No tax avoidance can be achieved if the election can be made on a late return, and no administrative problems are foreseen if the rule is changed to permit an election on a late return. Moreover, it is incongruous that the specific severe penalties for filing a late return and for late payment of the tax may under existing law be excused if there is reasonable cause for the late filing or payment, while the alternate valuation date election, which is intended to be helpful to estates in distress, is absolutely precluded if the return is late, even if there is good reason for the late filing.

The bill would amend section 2032(c) to permit an alternate valuation date election on a late return. This rule cannot result in any planned tax avoidance because the due date of the return (9 months after date of death) is in all cases after the alternate valuation date (6 months after date of death). The values on the alternate valuation date are thus fixed on the due date of the return, and delay in the filing of the return therefore cannot change the tax consequences which would have resulted if the return had been timely filed.

In summary, the only effect of precluding the alternate valuation date election on a late return is to impose the loss of this election as an additional penalty for filing the late return—a penalty which is unrelated to the policy of the alternate valuation date election, and which cannot be excused even for reasonable cause. There is no administrative or tax policy reason for such a result, and this bill would remedy that situation.

Because of the remedial nature of this bill, it should apply to all cases which are not barred by the statute of limitations on the date of enactment.●

ADDITIONAL COSPONSORS

S. 2388

At the request of Mr. JAVITS, the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2388, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of certain employer educational assistance programs.

S. 3007

At the request of Mr. DOLE, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3007, a bill pertaining to the treatment of individuals as employers.

S. 3037

At the request of Mr. DECONCINI, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 3037, a bill to provide for the administration of the Internal Revenue Code of 1954 without regard to certain Revenue rulings relating to the definition of the term "employee."

S. 3293

At the request of Mr. MELCHER, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 3293, a bill to provide that the Amtrak route system in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, and for other purposes.

S. 3330

At the request of Mr. CULVER, the Senator from Alaska (Mr. STEVENS) and the Senator from Mississippi (Mr. EASTLAND) were added as cosponsors of S. 3330, a bill to require agencies to consider alternative regulatory proposals in the promulgation of agency rules, regulations, and reporting requirements.

S. 3377

At the request of Mr. THURMOND, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 3377, a bill to create an Assistant Secretary of Labor for Veterans' Employment.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from Indiana (Mr. BAYH), the Senator from North Carolina (Mr. HELMS), the Senator from Nebraska (Mr. CURTIS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 526, regarding the anniversary of the Soviet invasion of Czechoslovakia.

UP AMENDMENT NO. 1601

At the request of Mr. ROTH, the Senator from Florida (Mr. STONE) was added as a cosponsor of UP amendment No. 1601 proposed to H.R. 12935, an act making appropriations for the legislative branch for fiscal year 1979.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL ACQUISITION ACT OF 1977—S. 1264

AMENDMENT NO. 3435

(Ordered to be printed and to lie on the table.)

Mr. CHURCH submitted an amendment intended to be proposed by him to S. 1264, a bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies.

PROCUREMENT OF SERVICES INCIDENTAL TO ARCHITECTURAL ENGINEERING PROJECTS

● Mr. CHURCH. Mr. President, today I have submitted an amendment to S. 1264, the Federal Acquisition Act of 1977, in order to clarify present law governing Federal procurement of services which are directly related to Federal architectural engineering (A–E) projects.

S. 1264 would rewrite Federal procurement laws, based upon the recommendations of the Commission on Government Procurement. It is a major and much-needed undertaking that has spanned several years, and Senator CHILES, chairman of the Governmental Affairs Subcommittee on Federal Spending, is to be commended for his efforts in reporting this legislation to the Senate for action.

One procurement law which S. 1264 would not amend is Public Law 92–582, commonly called the Brooks bill after the chairman of the House Committee on Governmental Operations. This law was enacted in 1972 in order to codify a unique procurement procedure which had been used for A–E projects.

The Brooks bill procedure requires that A–E contracts be negotiated rather than let by competitive bidding. In addition, however, a relatively unique characteristic of the Brooks bill as compared to other present procurement laws—whether they prescribe negotiations or competitive bidding—is its requirement that these projects be publicly announced. Therefore, even though these contracts are negotiated rather than bid competitively, they are negotiated in the sunshine.

The Brooks bill procedure itself is also unique. It requires that Federal agencies maintain a list of eligible firms. When the agency contemplates an A–E project, three firms are selected from the list, and negotiations are undertaken with each in order of preference. I ask unanimous consent that the Brooks bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SUBCHAPTER VI.—SELECTION OF ARCHITECTS AND ENGINEERS (NEW)

§ 541. Definitions.

As used in this subchapter—

(1) The term "firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

(2) The term "agency head" means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

(3) The term "architectural and engineering services" includes those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. (June 30, 1949, ch. 288, title IX, § 901, as added Oct. 27, 1972, Pub. L. 92–582, 86 Stat. 1278.)

§ 542. Congressional declaration of policy.

The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. (June 30, 1949, ch. 288, title IX, § 902, as added Oct. 27, 1972, Pub. L. 92–582, 86 Stat. 1279.)

§ 543. Requests for data on architectural and engineering services.

In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required. (June 30, 1949, ch. 288, title IX, § 903, as added Oct. 27, 1972, Pub. L. 92–582, 86 Stat. 1279.)

§ 544. Negotiation of contracts for architectural and engineering services.

(a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

(c) Should the agency head the unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached. (June 30, 1949, ch. 288, title IX, § 904, as added Oct. 27, 1972, Pub. L. 92–582, 86 Stat. 1279.)

Mr. CHURCH. My amendment, Mr. President, will clarify the basic scope of the law as it applies to "incidental services." The general services to be contracted under the Brooks bill procedure are defined to include "those professional services of an architectural or engineering nature, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform." My amendment will reiterate the intent of the Brooks bill's inclusion of incidental services when contracts involve these services alone in the context of A–E projects.

The incidental services to which my amendment is targeted are themselves performed by professionals. The best example is surveying. My State of Idaho and a number of others license surveying as a profession. Licensing for professions has traditionally been the responsibility of the States, and I believe that it should remain so. Although States may choose not to license certain professions, such as chiropractic, naturopathy or many others, or, as in the case of surveying, to incorporate it into other professions like architecture or engineering, the Federal Government must not override or "delicense" professions which States do choose to license.

The Brooks bill does not "delicense" surveying because of its specific inclusion of incidental services. A decision by the Comptroller General, "Ninneman Engineering," addressed this matter and held:

Where performance of cadastral (land) survey is incidental to professional A–E services, survey must be procured in course of procurement of such professional A–E services, which must follow method prescribed in Brooks Bill. . . . If survey is independent of A–E project, established competitive procedures may be used.

In this decision and another involving the profession of mapping, the Comptroller General ruled that the services in these specific cases were not incidental to A–E projects, and therefore were not covered by the Brooks bill. In a letter to the Comptroller General requesting a review of these adverse linkage determinations Chairman Brooks wrote:

As you know, the Brooks Act encompasses the procurement of professional services of an architectural and engineering nature, including those involving ancillary services that members of these professions or those in their employ may logically and justifiably perform. Such ancillary services clearly include those inovlving surveying and mapping. I recognize that instances may occur where an agency may seek to obtain such services which have no connection with any aspect of an architectural or engineering project and would not fall within the Act. However, if such a service is utilized by an agency, directly or indirectly, in an A–E project, or in gathering data and professional opinions upon which to base a decision to enlist A–E services, then such services would fall within the Act.

Furthermore, Mr. President, the Comptroller General has affirmed the inclusion of contracts for services which are incidental to A–E projects in his letter to me on this matter of April 5, 1978. He also states that surveyors are engaged in a licensed profession under the Brooks bill. I ask unanimous consent that this letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Despite all of these assurances, Mr. President, Idaho surveyors and others have told me emphatically that they have been excluded from consideration for contracts let under the Brooks bill procedure. My amendment is designed to clarify the fact that they must be included.

I have discussed this situation and my amendment with Senator CHILES. I am most grateful for his sympathetic and supportive response, although I recognize he may have reservations over its wording. So that all concerned can have an opportunity to review its text, I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3435

On page 92, immediately after line 4, insert the following new title:

TITLE X—SELECTION OF FIRMS TO PERFORM INCIDENTAL SERVICES AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

SEC. 1001. (a) Section 901(1) of the Federal Property and Administrative Services Act of 1949 is amended by inserting immediately before the period a comma and the following: "except in the case of incidental services as described in paragraph (3), the term 'firm' includes any individual, firm, partnership, corporation, association, or other legal entity permitted by law or otherwise professionally qualified to perform such incidental services".

(b) Section 901(3) of such Act is amended by striking out "that members of these professions and those in their employ may logically or justifiably perform" and inserting "to professional architectural and engineering services".

On page 43, in the table of contents, immediately after item "Sec. 902." insert the following:

TITLE X—SELECTION OF FIRMS TO PERFORM INCIDENTAL SERVICES

SEC. 1001. Amendments to the Federal Property and Administrative Services Act of 1949.

EXHIBIT 1

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 5, 1978.

HON. FRANK CHURCH,
U.S. Senate.

DEAR SENATOR CHURCH: We refer to your letter of January 10, 1978, enclosing correspondence you received concerning Federal procurement and the profession of survey-

ing. You suggest that two of our recent decisions reflect a usurpation of the states' surveyor licensure requirements by Federal procurement regulation, which you believe was not intended by Congress.

The decisions you reference are Ninneman Engineering-reconsideration, B-184770, March 9, 1977, 77-1 CPD 171, and United States Geological Survey, B-118678, May 6, 1977, 77-1 CPD 314. Copies are enclosed, as well as in a copy of our initial decision in Ninneman Engineering, B-184770, May 11, 1976, 76-1 CPD 307. In the March 9, 1977, decision we considered whether cadastral surveys must be procured in accordance with the Brooks Bill, 40 U.S.C. § 541 et seq. (Supp. V, 1975), which states the Federal Government's policy in the procurement of architect-engineer (A-E) services. Our findings in that decision served as the basis for the May 6, 1977, decision, which involved certain mapping services.

The Brooks Bill declares it to be Federal policy to publicly announce all requirements for architectural and engineering services and to negotiate contracts for such services on the basis of demonstrated competence and qualification and at fair and reasonable prices. In Ninneman Engineering-reconsideration, we outlined the procedures prescribed in the Bill as follows:

"Generally, the selection procedures prescribed require the contracting agencies to publicly announce requirements for A-E services. (This represents a change in the traditional method of obtaining A-E services.) The contracting agency then evaluates A-E statements of qualifications and performance data already on file with the agency and statements submitted by other firms in response to the public announcement. Thereafter, discussions must be held with 'no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach' for providing the services requested. (The discussion requirement is also a change in the traditional selection method.)

"Based on established and published criteria, the contracting agency then ranks in order of preference no less than three firms deemed most highly qualified. The legislative history makes it clear that the criteria to be used in ranking the firms for selection and final negotiation should not include or relate, either directly or indirectly, to the fees to be paid the firm. S. Rep. No. 1219, 92d Congress, 2d Sess. 8 (1972); H.R. Rep. No. 1188, 92d Congress, 2d Sess 10 (1972).

"Negotiations are held with the A-E firm ranked first. Only if the agency is unable to agree with the firm as to a fair and reasonable price are negotiations terminated and the second ranked firm invited to submit its proposed fee."

The Bill defines A-E services at 40 U.S.C. § 541(3) to include "those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform." The issues before us arose because we were advised that performance of the surveys and the mapping services are not unique to professional A-E firms but are often performed by them. In this connection, it is not our position, as represented in the correspondence enclosed with your letter, that surveying is not a "professional" service. On the contrary, we recognize that states may require that land surveyors be licensed by the State. We also recognize, however, that states may have separate registration requirements for architects and engineers.

In considering whether Brooks Bill procedures applied to cadastral surveys, or whether agencies could instead use standard competitive procurement procedures, we reviewed the legislative history of the Bill. The history shows that the first part of the above definition, "professional services of an architectural or engineering nature," refers to services which are either unique to the A-E profession, or to a substantial or dominant extent logically fall within the particular expertise of its members. See S. Rep. No. 1219, 92d Cong., 2d Sess. 7 (1972); H.R. Rep. No. 1188, 92d Cong., 2d Sess. 7 (1972). Those services would essentially consist of design and consultant services traditionally obtained in connection with Federal construction and related programs, including alteration and renovation projects. S. Rep., supra, 1; H.R. Rep., supra, 1. Since we were advised that cadastral surveys could be adequately and properly performed by other than an architect or an engineer, the cited phrase in the definition at 40 U.S.C. § 541(3) could not be a basis to require their procurement by Brooks Bill procedures.

However, we were also advised that cadastral surveys may "logically or justifiably" be performed by professional A-E firms. Thus, their procurement would in fact be subject to the Brooks Bill if, as stated in the second part of the definition, they are "incidental" to otherwise professional A-E services, as described above.

We therefore concluded that where such services are to be performed in conjunction with "professional services of an architectural or engineering nature," which clearly must be procured by the Brooks Bill procedures, they should be contracted for in the course of the procurement of the professional A-E services under the Brooks Bill method. A number of the types of services which may be considered "incidental" are listed at Federal Procurement Regulations § 1-4.1002(c) (1964 ed. amend. 150).

We trust that the above discussion and the enclosed material serve the purpose of your inquiry.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.●

ELEMENTARY AND SECONDARY EDUCATION ACT—S. 1753

AMENDMENT NO. 3436

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA (for himself, Mr. CRANSTON, Mr. HODGES, Mr. TOWER, Mr. MOYNIHAN, and Mr. BARTLETT) submitted an amendment intended to be proposed by them, jointly, to S. 1753, a bill to extend the Elementary and Secondary Education Act of 1965, and for other purposes.

● Mr. MOYNIHAN. Mr. President, today I am submitting an amendment to S. 1753 in order to extend Public Law 94-405, the Indochina Refugee Children Assistance Act of 1976. If not extended it would terminate on September 30, 1978. Title II of the act is the only Federal education program that provides specifically for elementary and secondary educational services to approximately 180,000 Vietnamese, Camodian, nd Laotian children currently residing in the United States.

Public Law 94-405 was passed originally with the notion that continued funding would not be necessary since no more Indochinese refugees were expected in this country. Public Law 94-405 became law on September 10, 1976. A number of developments since that date have demonstrated that the original assumptions were erroneous. In August 1977, a program was enacted authorizing the admission of additional 15,000 refugees. In January 1978, the entry of more refugees—7,000 in this case—was authorized and in June of this year a further increment of 25,000 was approved. In other words, as of this date there has been an unexpected increase of 47,000 arrivals. But this is not all. Vice President MONDALE recently expressed the U.S. Government intention to admit 15,000 to 20,000 yearly for several years from camps in Thailand. The number would come within the total of about 25,000 refugees that the administration recently said it expects to admit each year from Asia.

The Indochinese refugees come to this country under the authority of the Federal Government. It would not be fair to ask the impacted States to assume the resulting financial burden. I also believe that the additional educational services for which Public Law 94-405 provides the funds should be continued and therefore, urge my colleagues to support this amendment.●

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS—S. 2584

AMENDMENT NO. 3437

(Ordered to be printed and to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to S. 2584, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Mr. LEAHY. Mr. President, the basic safety of nuclear power generating facilities and the problem of nuclear waste storage have been and will continue to be debated well into the next century. All over the United States and throughout the world, people are concerned over their well-being in light of the potential threat of a nuclear accident. But against the backdrop of the world's rising energy needs, our dependence on power from nuclear generating facilities presents difficult questions for pragmatic planners of world development.

Here in the United States, the Nuclear Regulatory Commission is the prime arbiter of nuclear safety, research, licensing, processing, transport, and disposal of spent fuel. There have been glaring problems inherent in the Federal Government's handling of nuclear plant licensing problems, the most celebrated of which is the Seabrook nuclear powerplant in New Hampshire.

The on-again, off-again stance by various Federal agencies dealing with Seabrook plant points up the need for a more coordinated approach. What I am proposing today as an amendment to the Atomic Energy Act of 1954 might actually complicate proceedings before the NRC, but I feel it is a necessary complication: I want to add the element of public comment.

The NRC panel holds court on issues vital to people who live near reactors, workers who labor in the plants and ratepayers who pay the bills for electricity generated by nuclear facilities.